IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2004

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

CRL.O.P.No. 23753 OF 2004

1.M.Mohammed Zhaoor
2.Md.Yunus
3.M.Sambamoorthy — Petitioners/ Accused.

Versus

1.The Sub-Inspector of Police
District Crime Branch
St.Thomas Mount, Chennai.

2.Captain Basha
'A' Section Superintendent
District Police Office
Chengalpattu East
Chennai-16. — Respondents / Complainants.

Petition filed under Section 482 of Cr.P.C praying for the relief as stated below.

For Petitioners : Mr.P.Arivudainambi
For Respondents : Mr.A.N.Thambidurai
Govt.Advocate (Crl.Side)

ORDER

This petition has been filed under Section 482 Cr.P.C. praying to call for the records pertaining to the first respondent in Ref.No.178/DCB/PGR/04 dated 16-6-2004, pending on his file and to quash the same.

2. Today, when the above matter was taken up for consideration, on a perusal of the materials placed on record and upon hearing the learned counsel for the petitioners and the learned Government Advocate on the Criminal Side for the respondents contra, it comes to be seen that all those contentions that are raised by the petitioners either in the petition or through the arguments advanced by the learned counsel appearing on behalf of the petitioners could very well be appreciated by the trial Court and not a single point has been brought forth so as to see that this Court could only sit on the judgment in exercise of

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its inherent powers conferred under Section 482 Cr.P.C. and therefore, prior to initiating any measure before this Court the petitioners should have filed the necessary petition raising all these points before the trial Court and in such event that the trial Court has not appreciated the same in the manner known to law, the doors are always open for the petitioners to approach this Court and therefore, it is only desirable on the part of the petitioners to raise all these questions before the trial Court.

3. Further, since it comes to be seen that the matter is under investigation and the charge sheet is yet to be filed, under such circumstances, it is not desirable on the part of this Court to cause any interference as the field is entirely occupied by the investigative agency as per the recent decisions of the Honourable Apex Court and hence, it is only desirable to close the above Criminal Original Petition and hence, the following order.

In result,

(i) subject to the above observations, the above Criminal Original Petition is disposed of;

(ii) consequently, connected Crl.M.P.No. 7673 of 2004 is closed;

(iii)it is further reported that the third petitioner is dead and considering the fact that the first petitioner is aged 75 years old it is only desirable on the part of this Court to dispense with the personal attendance of the petitioners 1 and 2 on all future dates of hearing by the trial Court and therefore, it is only desirable for the trial Court not to insist the personal attendance of the petitioners 1 and 2 excepting on those days when their personal attendance cannot be dispensed with in which event the trial Court will be at liberty to summon the petitioners 1 and 2 in the manner provided under Section 205 (2) Cr.P.C.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1.Sub-Inspector of Police
  District Crime Branch
  St. Thomas Mount
  Chennai.

2.The Public Prosecutor
  High Court, Madras.

+ 1 CC to Mr.P.Arivudainambi, advocate SR NO 53699

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